

STATE OF ILLINOIS
88TH GENERAL ASSEMBLY
REGULAR SESSION
SENATE TRANSCRIPT

3rd Legislative Day

January 26, 1993

PRESIDENT PHILIP:

The hour of noon having arrived, the Senate will come to order. And our prayer today will be given by the Reverend Wenneborg of the Chatham Christian Church. Reverend Wenneborg.

REVEREND WENNEBORG:

(Prayer by Reverend Wenneborg)

PRESIDENT PHILIP:

Reading of the Journal, Mr. Secretary.

SECRETARY HARRY:

Senate Journals of Wednesday, January 13th, and Thursday, January 14th, 1993.

PRESIDENT PHILIP:

Senator Butler moves the approval of the Journal. If there are no objections, the Journals are approved as read. Mr. Secretary, Messages.

SECRETARY HARRY:

Messages pursuant to Senate Rules.

Dear Mr. Secretary - Please be advised that I have made the following changes in Standing Committee Membership:

Senator Sieben, Vice Chairman - Committee on Financial Institutions;

Senator Syverson, Vice Chairman - Committee on Local Government and Elections.

Signed by Senator Philip, President of the Senate. Dated January 19, 1993.

Dear Mr. Secretary - Please be advised that I have made the following appointments to the 88th General Assembly Standing Committees. These appointments are effective immediately:

Agriculture and Conservation - Senator Woodyard, Chairman; Senator Burzynski, Vice Chairman; and Senators Dunn, Hawkinson and Madigan.

Committee on Appropriations - Senator Maitland, Chairman;

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Senator Donahue, Vice Chairman; and Senators Dunn, Fawell, Hasara, Lauzen, Madigan, Rauschenberger and Woodyard.

Committee on Commerce and Industry - Senator Butler, Chairman; Senator Klemm, Vice Chairman; and Senators Barkhausen, Cronin and Lauzen.

Committee on Education - Senator Watson, Chairman; Senator O'Malley, Vice Chairman; and Senators Burzynski, DeAngelis, Karpziel and Sieben.

Committee on Environment and Energy - Senator Mahar, Chairman; Senator Peterson, Vice Chairman; and Senators Donahue, Karpziel, Maitland and Rauschenberger.

Committee on Executive - Senator Karpziel, Chairman; Senator Dudycz, Vice Chairman; and Senators DeAngelis, Geo-Karis, Klemm, McCracken, Philip, Watson and Weaver.

Committee on Financial Institutions - Senator Barkhausen, Chairman; Senator Sieben, Vice Chairman; and Senators Butler, Syverson and Topinka.

Committee on Insurance, Pensions and Licensed Activities - Senator Madigan, Chairman; Senator Fitzgerald, Vice Chairman; and Senators Burzynski, O'Malley, Peterson and Petka.

Committee on Judiciary - Senator Hawkinson, Chairman; Senator Petka, Vice Chairman; and Senators Barkhausen, Cronin, Fitzgerald, McCracken and Topinka.

Committee on Local Government and Elections - Senator Raica, Chairman; Senator Syverson, Vice Chairman; and Senators Butler, Dudycz, Mahar and Peterson.

Committee on Public Health and Welfare - Senator Topinka, Chairman; Senator Cronin, Vice Chairman; and Senators Donahue, Mahar, Raica and Syverson.

Committee on Revenue - Senator DeAngelis, Chairman; Senator Lauzen, Vice Chairman; and Senators Fitzgerald, O'Malley and Woodyard.

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Committee on State Government Operations and Executive Appointments - Senator Ralph Dunn, Chairman; Senator Rauschenberger, Vice Chairman; and Senators Geo-Karis, McCracken and Sieben.

And Committee on Transportation - Senator Fawell, Chairman; Senator Hasara, Vice Chairman; and Senators Hawkinson, Klemm, Petka and Watson.

Signed by Senator Philip, President of the Senate. Dated January 25, 1993.

Dear Mr. Secretary - Please be advised that I have made the following appointments to the Senate Rules Committee of the 88th General Assembly:

Senator Vince Demuzio and Senator John Cullerton.

The above appointments are being made without acknowledging or accepting the validity, legality or constitutionality of the Senate Rules adopted January 13, 1993. By making these appointments, it should not be implied or inferred that any rights are being waived or disclaimed, but that all rights, whether parliamentary or legal, are being explicitly retained and reserved.

Signed by Senator Jones, Minority Leader. Dated January 25, 1993.

Dear Mr. Secretary - Please be advised that I have made the following appointments to the Standing Committees of the 88th General Assembly:

Appropriation - Senator Hall, Minority Spokesman; and Senators Carroll, Luft, Smith, Severns and Hendon.

Committee on Financial Institutions - Senator Rea, Minority Spokesman; and Senators Carroll, Luft and LaPaille.

Committee on Insurance, Pensions and Licensed Activities - Senator Cullerton, Minority Spokesman; and Senators Berman, DeLeo and Molaro.

Committee on Agriculture and Conservation - Senator

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O'Daniel, Minority Spokesman; and Senators Welch, Jacobs and LaPaille.

Committee on Transportation - Senator Jacobs, Minority Spokesman; and Senators Collins, O'Daniel and Shaw.

Committee on Judiciary - Senator Thomas Dunn, Minority Spokesman; and Senators Cullerton, Stern and Molaro.

Energy and Environment - Senator Farley, Minority Spokesman; and Senators Jacobs, Shaw and Trotter.

Committee on Executive - Senator Severns, Minority Spokesman; and Senators Hall, Vadalabene, Demuzio, Jones and del Valle.

Committee on Commerce and Industry - Senator Palmer, Minority Spokesman; and Senators Collins, Dunn and Farley.

Committee on State Government Operations and Executive Appointments - Senator Garcia, Minority Spokesman; and Senators Vadalabene, Carroll and DeLeo.

Committee on Education - Senator Berman, Minority Spokesman; and Senators Demuzio, Collins and del Valle.

Committee on Revenue - Senator Welch, Minority Spokesman; and Senators Berman, O'Daniel and Palmer.

Committee on Public Health and Welfare - Senator Smith, Minority Spokesman; and Senators Rea, Garcia and Trotter.

And Committee on Local Government and Elections - Senator LaPaille, Minority Spokesman; and Senators Stern, Trotter and Hendon.

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Signed by Senator Jones, Minority Leader. Dated January 25, 1993.

Dear Mr. Secretary - Pursuant to Senate Rules 2-10 and 4-1, I hereby schedule the following as Perfunctory Session days of the Senate:

January 28th, February 4th, February 11th, February 16th and February 25th, 1993.

Signed by Senator Philip, President of the Senate. Dated January 26, 1993.

PRESIDENT PHILIP:

Public Radio has asked permission to record. If there's no objections, we'll let them record. Senator Jones, for what purpose do you rise?

SENATOR JONES:

Thank you, Mr. President. A point of -- a point of order, Mr. President.

PRESIDENT PHILIP:

State your point.

SENATOR JONES:

Yeah. Mr. President, apparently today the Senate is operating under rules adopted January 13, 1993, on a strictly partisan roll call. As you know, we who voted against the adoption of those rules do not agree with the validity, legality or the constitutionality of the rules. And in fact, we believe the rules are illegally unconstitutional in general and in specific provisions on the face and are -- and as already applied. However, in order to be responsive and responsible to our constituency, we do not want to be obstructive -- we -- in these proceedings. We are participating in today's Session. By doing so, it should not be implied or inferred that we are giving up, waiving or disclaiming any rights we have to challenge these rules, whether parliamentary or legal. To the contrary, we are explicitly reserving and retaining any rights we have in that

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regard. And at this time, Mr. President, I wish you would recognize Senator Cullerton.

PRESIDENT PHILIP:

Senator Cullerton, for what purpose do you rise?

SENATOR CULLERTON:

On a point of order, Mr. President.

PRESIDENT PHILIP:

State your point.

SENATOR CULLERTON:

Senator -- President Philip, Rule 3-2 allows the President and the Minority Leader, at the commencement of the two-year term of the General Assembly, to appoint their respective Members to the Standing Committees. All such appointments shall become immediately effective upon delivery of the appropriate correspondence to the Secretary. Now the rule states that appointments shall last for the duration of the term. And in Section 3-1(d), that provides that a vacancy occurs on a committee only when a Senator resigns or ceases to be a Senator. In those cases, the President or the Minority Leader may replace the vacancy by appointment. However, no Senator who resigns from a committee may be reappointed to that committee without the concurrence of a majority of Members elected. So, Mr. President, as I understand it, on January 14th there was a letter sent to the Secretary of the Senate appointing Chairmen and Vice Chairmen, and included in that were the Vice Chairmen of Financial Institutions and Local Government. Financial Institutions at the time was Senator Syverson, and Local Government was Senator Sieben. Now, on January 19th you sent a letter to the Secretary of the Senate advising that you had made the following changes in the Standing Committee Membership. Now, as I read these rules - and this was explained by Senator Hawkinson as a reform measure - kind of a concern that they had over -- perhaps with some practices at the

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House - that the only way you can change Members of a committee is if there's a vacancy. And to our knowledge, Senator Sieben and Syverson are certainly still Senators, and they did not resign from those committees. And if I could go on while you're studying that issue: In listing the powers of the President, Rule 2-5 authorizes you to appoint all majority caucus Members of committees and there is no rule that simply allows the President to make replacement appointments. Now Rule 3-2 applies only to appointments made at the commencement of the term, and the President has already made those initial appointments. You made that, I believe, on January 14th. You delivered that correspondence to the Secretary. So unless a vacancy occurs by resignation or otherwise provided in Rule 301(d) <sic> (3-1(d)), the President is not authorized to make replacement appointments, unless there's a resignation. So you attempted today to make some replacement appointments; there are some changes. And I believe that it's improper - a violation of the rules - unless there are resignation letters or -- and, in addition to that, if you wish to reappoint some of those Members to the committee, it takes a unanimous consent or a motion supported by thirty votes.

PRESIDENT PHILIP:

Thank you, Senator Cullerton. Your comments are noted. It's in the record, and we will get back to you in a few minutes. Resolutions, Mr. Secretary.

SECRETARY HARRY:

Senate Resolution 17, offered by Senator Jones.

Senate Resolution 18, offered by Senator Molaro.

Senate Resolution 19, offered by Senator Raica.

Senate Resolution 20, offered by Senator Fitzgerald.

Senate Resolution 21, offered by Senator Trotter.

Senate Resolution 22, offered by Senator Donahue.

Senate Resolution 23 and 24, offered by Senator Topinka.

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And Senate Resolution 25, offered by Senators Mahar and O'Malley.

They're all -- congratulatory and death resolutions, Mr. President.

PRESIDENT PHILIP:

Consent Calendar.

SECRETARY HARRY:

Senate Joint Resolution No. 4, offered by Senator DeAngelis. It's congratulatory.

And Senate Joint Resolution 5, offered by Senators Jones, Philip and all Members.

It's a death resolution.

PRESIDENT PHILIP:

Consent Calendar. Senator Jones is recognized for the purpose of a resolution. Senator Jones.

SENATOR JONES:

Thank you, Mr. President. I'd like to suspend the appropriate rule to move for the immediate consideration of Senate Joint Resolution 5.

PRESIDENT PHILIP:

Mr. Secretary, please read the resolution in full. Senator Jones, we'll have to stand at ease for a minute. The resolution isn't down here yet. Senator Jones, the resolution is not here. As soon as they bring it down, we will read it and continue. Senator Hawkinson, for what purpose do you rise?

SENATOR HAWKINSON:

...for purpose of an announcement.

PRESIDENT PHILIP:

Make your announcement.

SENATOR HAWKINSON:

Thank you, Mr. President. Just to remind the Members of the Senate Judiciary Committee that our first meeting will be tomorrow

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morning at 10 a.m. in Room 400, and we will start promptly at 10 a.m.

PRESIDENT PHILIP:

Senator Karpziel, for what purpose do you rise?

SENATOR KARPIEL:

For an announcement, Mr. President.

PRESIDENT PHILIP:

State your announcement.

SENATOR KARPIEL:

I am announcing that the Executive Committee hearing -- meeting today at 2 o'clock has been moved to Room 400, instead of 212, because of the ceiling falling down.

PRESIDENT PHILIP:

Well, thank you very much. Mr. Secretary, would you please read Senator Jones' resolution in full.

SECRETARY HARRY:

Senate Joint Resolution 5, offered by Senator Jones, Philip and all Members.

(Secretary reads SJR No. 5)

PRESIDENT PHILIP:

Senator Jones, on Senate Joint Resolution No. 5. Senator Jones.

SENATOR JONES:

Thank you, Mr. President. And I know we are just beginning Session, but it is customary on a death resolution -- we just lost a Supreme Court Justice, and it's customary that the Members would -- do take their seat out of due respect on a death resolution. So I'd like to just raise that one particular point.

PRESIDENT PHILIP:

Senator Jones.

SENATOR JONES:

Yeah. Thank you, Mr. President. And on the resolution: The

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resolution is self-explanatory, but I feel that as a Member of this Body, one who did not have the opportunity to know Justice Thurgood Marshall personally, but I know all of his great works, and particularly in the State of Illinois as it relate to education in downstate Illinois, wherein we had a clause where certain teachers were paid more than others. And Thurgood Marshall championed that cause to make sure that all of our teachers in our public school system were paid equally - the same rate - and paid fairly. Thurgood Marshall -- all of his exploits in Illinois was constantly told to me as a Member of the House by our former dean over there, former Representative Corneal Davis, who was a champion of the rights of people, a champion of those who did -- who had no spokesman for them. And having been appointed to the Supreme Court of the United States, he carried out those same dictates: that is, fighting very hard to see that equal rights was there for all citizens. He championed the part in particular for education, to -- won the landmark decision in Brown versus the Board of Education. So, Mr. President and Members of this Body, I would like to have leave to have all Members included as the sponsorship of this resolution. I appreciate your cosponsorship of this resolution, because we lost a person who was a giant - a giant for America, a giant for all people. And, Mr. President, I move for the immediate adoption of this resolution.

PRESIDENT PHILIP:

Thank you, Senator Jones. Senator Geo-Karis, for what purpose do you arise?

SENATOR GEO-KARIS:

Mr. President and Ladies and Gentlemen of the Senate, I have studied Justice Marshall's career. And as an attorney, I can tell you that he was one of the most talented attorneys and one of the bravest attorneys in the history of mankind in this country. He

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had done work where he was threatened with lynching. In fact, he was almost lynched in one instance when he defended the rights of people. And I think it is only fitting that all of us join this resolution as a tribute to the honor, to the great legal service and the great humanitarianism of a great American, Thurgood Marshall.

PRESIDENT PHILIP:

Senator McCracken.

SENATOR McCracken:

Thank you. I appreciate the opportunity to speak on this resolution. I could not agree any more with both the sponsor of the resolution and the last speaker. I don't think it would surprise anybody to hear that some of us didn't agree with every position Justice Marshall took, but what he did stand for is beyond partisan dispute. He is one of the reasons that the Fourteenth Amendment and the Equal Protection Clause are as strong, for the benefit of everybody in this country, as they are. He stood for the rule of law. Orderly change through the rule of law. He has been a wonderful model for so many people as an individual, but I think his lasting contribution will be institutional. That rule of law is stronger today for the career of Justice Marshall.

PRESIDENT PHILIP:

Senator Smith.

SENATOR SMITH:

Thank you, Mr. President and Ladies and Gentlemen of the Senate. I stand here having had an opportunity to meet him. My husband, the late Senator Fred J. Smith, was a very close friend of his. And Corneal A. Davis, who was also a legislator here in the House. When Fred Smith and Corneal A. Davis went downstate to Cairo and all of these downstate areas, fighting for democracy for the schools of equal opportunity, and they sent for Thurgood

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Marshall to come and lead all their court cases that they had. They were threatened, but they came through. And I'd like to use this word here as we have lost a giant in constitutional law, which should be a symbol for all people and for all of our young people coming along. The strategies used by Marshall and his team of lawyers from the -- when he was head of the NAACP Legal Defense and Educational Fund, in winning dozens of other civil right cases, and in the process making America a place where all citizens are first class, and still helping all Americans, and we are continually studying his laws today as we train our young people for the law of procession. And so I think that if you do not know much about him, it would be well that we studied, for he was a people's people, but he was for justice. Thank you, and God bless you.

PRESIDENT PHILIP:

Senator Jones has moved to suspend the rules for the immediate consideration and adoption of Senate Joint Resolution 5. All those in favor, signify by saying Aye. Those opposed, Nay. Ayes have it. Motion carried. Now, the adoption of Senate Resolution <sic> (Joint Resolution) 5. The question is, shall the resolution be adopted. Those in favor, signify by saying Aye. Those opposed, Nay. Ayes have it. The motion is adopted -- the resolution is adopted. Senator Cullerton, your earlier point of order. The Parliamentarian has reviewed the Messages read into the record today, as well as those read into the record two weeks ago. There does not appear to be a substitution of Membership, but rather a committee Member from Vice Chairman to a regular committee Member. The Parliamentarian will review -- research this motion, and if there's a further motion required, we will make that motion at a later time. Senator Donahue, please.

SENATOR DONAHUE:

Thank you, Mr. President. I would rise and request a

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Republican Caucus in President Pate Philip's Office immediately following adjournment.

PRESIDENT PHILIP:

Senator Jones.

SENATOR JONES:

Yeah. Thank you, Mr. President. In your ruling as it relate to Senator Cullerton's inquiry as it relate to the appointments, the Rules are very explicit as relate to Members being appointed, and at the same time they are very explicit on Messages being given to the Secretary of the Senate. The replacement of Members on committee -- on these Rules that we just adopted two weeks ago tell us how and what procedure must be taking place. If a Member is to be removed, then a letter should be sent to the Secretary of the Senate, or I have received nothing that's saying that a Member has been replaced. So what I'm saying to you, Mr. President, is that Senator Cullerton's request and his inquiry cannot be pushed aside by a parliamentary statement of your Parliamentarian. Either you must suspend the rules - I'm not going to tell you how to do this - but some other steps must be taken. Once that Message is given to the Secretary of the Senate, you must abide by the Rules, and there is no deviation from that, Mr. President. So I would like a ruling on this as relate to the replacement of Members of the committee. I haven't received anything from those who were previously appointed that they have resigned those committees. So we are operating under these Rules that you adopted, and all we're requesting, Mr. President, that we do follow what your Membership adopted.

PRESIDENT PHILIP:

Thank you, Senator Jones. As the Chair earlier indicated, there has been no substitution of Membership. And let me say this: the idea for the rule and the theory behind the rule is, as you know, it has been the habit in the other Chamber to take

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Members off committees because they weren't voting the proper way, and insert somebody else to vote the way the Leadership wanted them to vote. It is the intention of the Chair not to have that happen in this Body whatsoever. This was a -- a recommendation worked out between those two Members, and they have agreed to do it. It was not my idea. So...(machine cutoff)... There has been no substitution. It's on the same committee. So, you know, as far as I'm concerned and the Parliamentarian is concerned, we have done nothing wrong or have violated the Rules. Senator Jones, for what purpose?

SENATOR JONES:

Mr. President, last week you read into the record, on the 14th, the chairman and the vice chairman of the committee. The Rules state that once they are appointed, then you in turn -- either the Member must resign and no Member can be -- can be placed on that same committee. Now we're operating under Senate Rules, and I agree -- I agree with what you are saying. This is the Senate. It is not the House. And we do not want Membership that's arbitrarily jumping up saying, "I don't want this committee," or "Take me off this committee." So what I'm saying, we are operating under Rules that you adopted. So how can a Member just say, all of a sudden, "I don't want this committee"? It was read into the record last week on the 14th. So, can you explain to this Body your reasoning? Do we have a letter of resignation? Has the Member stood on the Floor and said this? The Secretary of the Senate has that information, Mr. President. So, all we're attempting to do is see to it that we follow the Rules that we adopted. And your ruling is contrary to that point.

PRESIDENT PHILIP:

Senator Jones, the Chair has responded to your point of order. I would remind the Membership that the Governor has the State of the State tomorrow at noon. The Senate will convene at 11:30. I

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hope that everybody would be on time. Senator Maitland. There's going to be a Republican Caucus in Room 309 upon adjournment. Senator Maitland. Senator Maitland, for what purpose do you arise?

SENATOR MAITLAND:

Yes, Mr. President, I move we adjourn until 11:30 tomorrow.

PRESIDENT PHILIP:

Thank you. Senate stands adjourned. Senator Cullerton, for an announcement.

SENATOR CULLERTON:

Well, Mr. President, I was the one that initially made the point of order, and I sought your recognition so I could further inquire of your ruling. Then I wanted to ask for a caucus. If it's okay, I'd like to ask for a caucus. If it's not okay, if we're not allowed to caucus, just let us know right now.

PRESIDENT PHILIP:

Senator Cullerton, the Senate has adjourned. You were recognized for an announcement. Do you have an announcement?

SENATOR CULLERTON:

No. I'd like to ask for a caucus.

PRESIDENT PHILIP:

I understand that the Democrat Caucus - in whose office? Senator Rock's Office? All right. Democrat Caucus in the Minority Leader's Office.

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